



(916) 445-3076

May 31, 1978

Mr. William C. Lynch  
Sacramento County Assessor  
827 7th Street  
Sacramento, CA 95814

Attention: Mr. Jim Franco, Chief  
Assessment Administration

Dear Mr. Franco:

You recently requested our opinion on the availability of the homeowners' property tax exemption for Mr. and Mrs. Gus P. Plessas for the years 1974, 1975, 1976, and 1977 in the absence of a filing for the exemption. It is our opinion that the exemption should not be granted.

For purposes of analysis we must start with Section 6 of Article XIII of the State Constitution. This provides that the failure to file a claim in the manner provided by law shall be deemed a waiver of exemption. Section 253.5 of the Revenue and Taxation Code provides that persons claiming the homeowners' exemption shall submit an affidavit to the assessor. Section 253.5 also provides that the claim shall be filed in 1974-75 and after that need not be filed annually. Section 255.3 of the Revenue and Taxation Code provides that the assessor shall mail a claim form to any person receiving the exemption in 1973-74 for 1974-75. However, section 255.3(c) gives a clear indication of the intent that the failure to receive such a form shall not excuse the person from filing the affidavit. These sections taken together must be construed as prohibiting the granting of the exemption without the required filing by the taxpayer.

The fact that the assessor should have approved the 1973-74 claim does not relieve Mr. Plessas from filing the required affidavit. This is especially true in view of the fact that Mr. Plessas had notice he was not receiving the homeowners' exemption from his tax bill. These circumstances dictate that the exemption not be allowed.

Very truly yours,

Robert D. Milam  
Tax Counsel

RDM:fp  
cc: Mr. Greg Geeting  
Senator Rodda's Office

2. Memo.

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(916) 445-3076

September 18, 1978

Dear Mr.

I am sorry that I am unable to come to a conclusion different from the one I came to in May regarding your homeowners' exemption.

Even if the assessor's office were totally at fault for your predicament, it would be difficult to interpret the law to allow you the exemption. However, you must assume some responsibility for the failure of communication with the assessor's office because you filed late in 1973-74, you failed to respond to the May 1974 letter informing you of the change in the 1973-74 exemption claim, and you have been receiving a copy of your tax bill since 1975 indicating you were not receiving the homeowners' exemption. Even though you state your bank paid the taxes and may have been mailed the 1974 notification, this cannot relieve you of the ultimate responsibility for not filing the claim for the homeowners' exemption in 1974-75.

I can see no way under the present law that I can conclude you are eligible for the homeowners' exemption for the 1974-75, 1975-76, and 1976-77 tax years.

Very truly yours,

Robert D. Milam  
Tax Counsel

RDM:fr

cc: Mr. Greg Geeting  
Senator Rodda's Office

Mr. William C. Lynch  
Sacramento County Assessor